

**ENTERED**

February 24, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

ANAY MATA,

Plaintiff,

VS.

JOVITA K. DE PASOL, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:22-cv-098

**ORDER**

On June 30, 2022, Plaintiff Anay Mata filed this action against Defendants Jovita K. De Pasol and Karolina Gutierrez De Lara, as Substitute Trustee, in a Texas state court. This suit arises in connection with a loan that Mata obtained from De Pasol. In connection with the loan, Mata executed a promissory note secured by a deed of trust granting De Pasol a lien against Mata's homestead. Mata alleges that the transaction violates the Home Ownership Equity Protection Act, the Truth in Lending Act, and the Texas Constitution. She also seeks declaratory relief, including a declaratory judgment that the lien is void.

De Pasol and Gutierrez removed the matter to this Court and moved to dismiss all of Mata's causes of action for failure to state a claim upon which relief can be granted.

On November 3, 2022, counsel for De Pasol filed a Suggestion of Death (Doc. 15), notifying the Court of De Pasol's death. On February 2, 2023, the Court granted Mata's unopposed motion for substitution of party, and substituted Raquel Cimet, as trustee of the Jovita K. De Pasol Trust, in place of Jovita K. De Pasol. (Order, Doc. 21)

The Magistrate Judge recommends that Defendants' Motion to Dismiss be granted as Mata has failed to state a claim upon which relief can be granted. (Am. R&R, Doc. 13) No party filed objections to the Amended Report and Recommendation, and the Court finds no clear error within it. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(3).

As a result, the Court **ADOPTS** the Amended Report and Recommendation (Doc. 13). It is:


**ORDERED** that the Defendants' Motion to Dismiss for Failure to State a Claim (Doc. 8) is **GRANTED**; and

**ORDERED** that all of Plaintiff Anay Mata's causes of action against Raquel Cimet, as trustee of the Jovita K. De Pasol Trust, and Karolina Gutierrez De Lara, as Substitute Trustee, are **DISMISSED WITH PREJUDICE**.

In their Motion to Dismiss, Defendants indicate that they would request recovery of attorney's fees if the Court granted their Motion. Based on this indication, and without reaching whether Defendants are entitled to recovery of attorney's fees, it is also:

**ORDERED** that Defendants Raquel Cimet, as trustee of the Jovita K. De Pasol Trust, and Karolina Gutierrez De Lara, as Substitute Trustee shall file any motion to request recovery of attorney's fees by no later than March 10, 2023.

Signed on February 24, 2023.

  
Fernando Rodriguez, Jr.  
United States District Judge